

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

No. 882

Introduced by Assembly Member Nation

February 18, 2005

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An act to amend Section ~~47601~~ 17316 of the Education Code, relating to ~~charter schools~~ school facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 882, as amended, Nation. ~~Charter schools~~ School facilities: contracts with certified architects or structural engineers.

*Under existing law, contracts entered into by and between a school governing board and any certified architect or structural engineer are required to provide that plans, specifications, and estimates are the property of the school district. Existing law provides that a school district that proposes to reuse the plans within the school district is required to specify the terms and conditions for the reuse in the contract entered into between the school district and the architect or engineer.*

*This bill would provide that a school district that reuses the plans prepared by the certified architect or structural engineer and retains another certified architect or structural engineer for the preparation of those plans for the reuse would be required to indemnify and hold harmless the original certified architect or structural engineer, and their consultants, agents, and employees, from and against any claims, damages, losses, and expenses arising out of or resulting from, in whole or in part, the reuse.*

~~The Charter Schools Act of 1992 authorizes any one or more persons to submit a petition to the governing board of a school district to establish a charter school that operates independently from the~~

~~existing school district structure as a method of accomplishing specified goals.~~

~~This bill would make a technical, nonsubstantive change to the act.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 47601 of the Education Code is~~  
2 ~~amended to read:~~

3 *SECTION 1. Section 17316 of the Education Code is*  
4 *amended to read:*

5 17316. (a) Any contract entered into by and between the  
6 governing board of any school district and any certified architect  
7 or structural engineer pursuant to Section 17302 shall provide  
8 that all plans, including, but not limited to, record drawings,  
9 specifications, and estimates prepared pursuant thereto, shall be  
10 and remain the property of the school district for the purposes of  
11 repair, maintenance, renovation, modernization, or other  
12 purposes, only as they relate to the project for which the certified  
13 architect or structural engineer was retained. ~~Nothing in this~~ *This*  
14 ~~subdivision shall does not~~ preclude the school district from using  
15 the plans, record drawings, specifications, or estimates related to  
16 the project for the purposes of additions, alignments, or other  
17 development on the site.

18 (b) The contract set forth in subdivision (a) ~~shall does not be~~  
19 ~~construed to~~ transfer or waive the certified architect's or  
20 structural engineer's copyrights over these documents, including,  
21 but not limited to, all common law, statutory, and other reserved  
22 rights, unless the certified architect or structural engineer  
23 expressly transfers or waives these rights through the written  
24 contract, including, but not limited to, a written addendum or  
25 amendment.

26 (c) Notwithstanding subdivision (a), if the school district  
27 proposes to reuse the plans prepared by the *certified* architect or  
28 *structural* engineer within the school district, the contract entered  
29 into between the school district and the *certified* architect or  
30 *structural* engineer shall specify the terms and conditions for the  
31 reuse. *If a school district reuses the plans prepared by the*  
32 *certified architect or structural engineer and retains another*

1 *certified architect or structural engineer for the preparation of*  
2 *those plans for the reuse, the school district shall indemnify and*  
3 *hold harmless the original certified architect or structural*  
4 *engineer, and their consultants, agents, and employees, from and*  
5 *against any claims, damages, losses, and expenses, including*  
6 *attorney's fees, arising out of or resulting from, in whole or in*  
7 *part, the reuse.*

8 ~~47601. It is the intent of the Legislature, in enacting this part,~~  
9 ~~to provide opportunities for teachers, parents, pupils, and~~  
10 ~~community members to establish and maintain schools that~~  
11 ~~operate independently from the existing school district structure,~~  
12 ~~as a method to accomplish all of the following:~~

13 ~~(a) Improve pupil learning.~~

14 ~~(b) Increase learning opportunities for all pupils, with special~~  
15 ~~emphasis on expanded learning experiences for pupils who are~~  
16 ~~identified as academically low achieving.~~

17 ~~(c) Encourage the use of different and innovative teaching~~  
18 ~~methods.~~

19 ~~(d) Create new professional opportunities for teachers,~~  
20 ~~including the opportunity to be responsible for the learning~~  
21 ~~program at the schoolsite.~~

22 ~~(e) Provide parents and pupils with additional choices in the~~  
23 ~~types of educational opportunities that are available within the~~  
24 ~~public school system.~~

25 ~~(f) Hold the schools established under this part accountable for~~  
26 ~~meeting measurable pupil outcomes, and provide the schools~~  
27 ~~with a method to change from rule-based to performance-based~~  
28 ~~accountability systems.~~

29 ~~(g) Provide vigorous competition within the public school~~  
30 ~~system to stimulate continual improvements in all public schools.~~